

AO 91 (Rev. 08/09) Criminal Complaint

United States District Court
EASTERN DISTRICT OF WASHINGTONFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAY 16 2013

SEAN F. McAVOY, CLERK
DEPUTY
YAKIMA, WASHINGTON

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

CASE NUMBER:

LEONEL MICHEL VARGAS

MJ-13-4168

(Name & Address of Defendant)

I, the complainant in this case, state the following is true and correct to the best of my knowledge and belief.

This complaint is based on these facts:

Count 1

On or about May 16, 2013, in the Eastern District of Washington, the Defendant LEONEL MICHEL VARGAS, being an alien illegally and unlawfully in the United States, did knowingly possess in and affecting commerce firearms, to wit: a .22 Caliber Savage Stevens Model 62 rifle, .22 caliber Herters revolver, .22 caliber Colt Huntsmen semi automatic pistol, and 9mm Taurus semi automatic pistol, which firearms had theretofore been transported in interstate and foreign commerce, in violation of 18 U.S.C. §§ 922(g)(5), 924(a)(2).

Count 2

On or about May 16, 2013, in the Eastern District of Washington, the Defendant LEONEL MICHEL VARGAS, did knowingly and intentionally possess with the intent to distribute 5 grams or more of actual methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. § 841(a)(1), and 18 U.S.C. § 2.

Yes ☐ NoContinued on the attached sheet incorporated herein by this reference. ☒

Sworn to before me and signed in my presence

May 16, 2013 at 12:03 p.m.

Date

Cynthia Imbrogno

United States Magistrate Judge

Name and Title of Judicial Officer

Signature of Complainant Aaron Clem

Task Force Officer FBI,

at Spokane, Washington

Signature of Judicial Officer

Vargas complaint.wpd

AUSA Assigned: Stephanie Van Marter

Re: *Arrest of LEONEL MICHEL VARGAS*

AFFIDAVIT

STATE OF WASHINGTON)

:ss

County of Franklin)

Aaron Clem, being first duly sworn on oath, deposes and states:

Aaron Clem, being first duly sworn on oath, deposes and states:

Your affiant has been a duly commissioned police officer with the Kennewick Police Department since June of 1996. In 1996, your affiant graduated from the Washington State Basic Law Enforcement Academy where your affiant received basic narcotics investigation and identification training. While employed by the Kennewick Police Department, your affiant received 4 hours of Methamphetamine Lab awareness and 24 hours of Patrol/Drug Interdiction training by the Washington State Criminal Justice Training Commission. In April 2003, your affiant attended a 40-hour clandestine lab certification course sponsored by the Criminal Justice Training Commission. In September 2003, your affiant completed training in the recognition, identification and methods of investigation concerning narcotics trafficking and use at a two-week Drug Enforcement Administration Drug

Affidavit of Aaron Clem-1

Enforcement Course. Your Affiant was assigned to the Tri-Cities Metro Drug Task Force from November of 2002 to November of 2005. Your Affiant is currently a Detective with the Kennewick Police Department assigned as a Task Force Officer (TFO) with the Tri-Cities Violent Gang Task Force (TVGTF), a Task Force which is tied to and run by the FBI.

The facts and opinions set forth in this affidavit have been derived from the above described training and experience, as well as my personal participation in this investigation and from information provided to me by other federal, state and local law enforcement personnel.

This affidavit is submitted in support of an application of an arrest warrant and complaint. Because this affidavit is being submitted solely for establishing probable cause for the application of an arrest warrant and complaint, your affiant has not included each and every fact known to your affiant concerning this investigation. Your affiant has set forth only the facts necessary to support the issuance of the requested warrant and complaint.

BACKGROUND

1. In September, 2012, Leonel Michel Vargas, DOB 12/29/1976, became the focus of an investigation by the TVGTF based on his involvement with an on-

going Mexican Drug Trafficking Organization (MDTO) investigation in the Eastern District of Washington, Oregon and California.

2. Your affiant reviewed a Washington State driver's license application dated October 4, 2006, for a driver's license obtained by Leonel Michel Vargas. In the application Leonel Michel Vargas provided his birthplace as Caleras, Colima, MX. Leonel Michel Vargas also provided a Mexican birth certificate and a Colima driver's license as identification.

3. Your affiant searched the Mexico National Registry for Leonel Michel Vargas and located a registration under CURP number MIVL761229HCMCRN07. The CURP number is a unique number given to each individual based on their parent's names, their date of birth and the area of the country they reside in Mexico.

4. Your affiant reviewed an NCIC criminal history for Leonel Michel Vargas, including a check of his immigration status through Immigration and Customs Enforcement (ICE) Law Enforcement Support Center (LESC). Based on the report Leonel Michel Vargas was arrested in Everett, WA in February, 2008 and in Othello, WA, in April, 2010. In addition, the LESC was unable to locate Leonel Michel Vargas in their database.

5. Your affiant reviewed the arrest report from Everett Police Department dated February 1, 2008. While reviewing the report your affiant found that Leonel Michel Vargas had been arrested for assaulting his wife Maria E. Cardenas Gomez. After being placed under arrest Leonel Michel Vargas stated that he was from Mexico, that he was in the United States illegally and that he wanted his consulate to be notified.

6. Your affiant has provided this information to HSI Special Agent Darren Pitt who also ran a check through the HSI database. These checks revealed no record of Leonel Michel Vargas, meaning that Leonel Michel Vargas has not made any formal attempt to change his immigration status. Therefore, based on the fact that Leonel Michel Vargas told the arresting officer in Everett, WA, that he was in the United States illegally and he has not made any attempt to change his status, SA Pitt and I concur that Leonel Michel Vargas is unlawfully in the United States.

7. On April 4, 2013, a pole camera was placed in the vicinity of and overlooking Leonel Michel Vargas' known residence at 531 Arousa Rd, Pasco, Franklin County, WA. The pole camera provides live and recorded viewing of the activity taking place in the front yard and driveway area of the residence, including the front door of the residence.

PROBABLE CAUSE

8. While reviewing recorded video from May 2, 2013, your affiant observed Leonel Michel Vargas walk from the back yard area to the driveway area and raise his hands while holding an object consistent with a firearm. Based on Leonel Michel Vargas' stance and hand positioning, your affiant believes that Leonel Michel Vargas was shooting a pistol.

9. While conducting surveillance on Leonel Michel Vargas throughout this investigation your affiant has observed him driving a silver 2002 Jeep Liberty bearing Washington plate AKK0983, registered to Clarissa Ochoa Gomez. Ochoa Gomez is believed to be Leonel Michel Vargas' sister-in-law and is known to reside with Leonel Michel Vargas at 531 Arousa Rd. While viewing live video on May 6, 2013, your affiant observed Leonel Michel Vargas arrive at the residence in what appeared to be the same a 2002 Jeep Liberty that that he had been observed in several times.

10. Leonel Michel Vargas met with two unknown males who were already at the location and waiting outside the residence. After several minutes, your affiant observed Leonel Michel Vargas walk into the residence. Leonel Michel Vargas returned to the front yard of the residence and placed what appeared

to be a glass beer bottle on top of a fence post. Leonel Michel Vargas then walked to the area where the other two males were waiting. Leonel Michel Vargas then turned around and positioned himself in a stance your affiant recognizes as a shooting stance while holding what appeared to be a firearm, see attachment A. After a few moments, Leonel Michel Vargas handed what appeared to be a firearm to one of the other males, who then positioned himself in a stance your affiant recognizes as a shooting stance. After a few moments, the second male handed what appeared to be a firearm to the third male, who then positioned himself in a stance your affiant recognizes as a shooting stance. This activity was consistent with target practice.

11. Using the pole camera, your affiant was able to zoom in on the males and the object in their hands. Your affiant observed what appeared to be a silver semi-automatic pistol of an unknown caliber. Your affiant also observed what appeared to be recoil from the pistol and smoke leaving the barrel of the pistol, indicating that the pistol was a functioning firearm. Your affiant also observed what appeared to be Leonel Michel Vargas removing and replacing the magazine from the magazine well. Leonel Michel Vargas and the other two males continued to exchange the pistol and shoot in the direction of the bottle for several minutes.

12. Your affiant then observed Leonel Michel Vargas leave the area and walk towards the residence. While Leonel Michel Vargas was away, your affiant observed one of the other males place what appeared to be another bottle on top of the post. Your affiant believes this indicates that the previous bottle had been shot. When Leonel Michel Vargas returned to the area of the other two males, your affiant observed what appeared to be a dark colored pistol. The males exchanged this pistol between them while taking turns shooting at the bottle in the same fashion as the first pistol.

13. After approximately 20 minutes, your affiant observed Leonel Michel Vargas walk towards the residence. Leonel Michel Vargas returned a few minutes later with what appeared to be a rifle. Your affiant left work for the day and returned the next day to review video. Upon reviewing the video your affiant observed that the males continued to exchange the firearms and shoot for approximately four hours.

14. At approximately 7:33 pm on the video your affiant observed what appeared to be the last shot fired. The shot was fired by one of the unknown males. After firing the last shot the male walked to Leonel Michel Vargas and appeared to hand something to Leonel Michel Vargas. Your affiant observed that

a few moments later Leonel Michel Vargas appeared to pick up the rifle and walk towards the residence.

15. While reviewing the video your affiant observed Leonel Michel Vargas access the interior of the Jeep Liberty on at least one occasion. There were an additional two times that Leonel Michel Vargas went to the area of the vehicle and your affiant believes the vehicle was accessed but the vehicle was out of view of the camera. Although the vehicle was accessed, based upon the number of times your affiant observed Leonel Michel Vargas access his residence your affiant believes firearms and/or ammunition or other evidence thereof is being stored in the residence. Further, your affiant believes additional firearms, ammunition and/or evidence thereof is being stored in the vehicle as well.

16. TFO Alice Rogers has been a Community Corrections Officer with the Washington State Department of Corrections since July 6, 1996. TFO Rogers has been a Certified Firearms Instructor since 2001. As part of TFO Roger's normal duties, she is responsible for being familiar with pistols and rifles and teaching proper technique for shooting both pistols and rifles. TFO Rogers has been a Task Force Officer with the FBI, assigned to the TVGTF since June 2008 and was commissioned by Benton County Sheriff Larry Taylor on December 4, 2009. On September 9, 2010, TFO Rogers received a Special Deputation from the

Federal Bureau of Investigation to investigate violations of Title 21. On August 17, 2012, TFO Rogers received a special deputation from the United States Marshals to investigate violations of Title 18.

17. Your affiant asked TFO Rogers to review the video pertaining to this affidavit for a search warrant at 531 Arousa Rd, Pasco, Franklin County, WA, and provide an opinion, if possible, on the firearms being used.

18. TFO Rogers advised that upon reviewing the video she was able to identify three separate firearms, a silver colored semi-automatic pistol with black grip, a dark colored handgun (unknown semi-automatic or revolver) and a semi-automatic rifle. Based on the smoke being discharged from each of the firearms TFO Rogers believes they are all functional firearms. TFO Rogers was unable to provide an opinion on the caliber of each firearm.

19. For reference your affiant has provided photos captured from the video as Attachment A.

20. On May 14, 2013, Magistrate Judge Imbrogno signed a search warrant for 531 Arousa Rd., Pasco, WA, (MJ-13-217-00) the residence of Leonel Michel Vargas. On May 16, 2013 a search warrant was executed by the Tri-Cities Violent gang Task Force (TVGTF) at approximately 6:02 a.m.


21. During the search of the residence four firearms were found and inspected by ATF SA Mario Piergallini. The firearms were a .22 Caliber Savage Stevens Model 62 rifle, .22 caliber Herters revolver, .22 caliber Colt Huntsmen semi automatic pistol, and 9mm Taurus semi automatic pistol. SA Piergallini advised that the firearms were not manufactured in the state of Washington, therefore they moved in interstate and/or foreign commerce.

22. During the search of the residence three small baggies of a white crystal substance were found. The white crystal substance inside the baggies tested presumptive positive for methamphetamine. One baggie was found in the laundry room in a basket. Two other baggies were found above the kitchen cabinet. Based on the training and experience of your affiant it is believed that the baggies contain more than 5 grams of pure methamphetamine. A zip lock bag was found in a shed outside the residence. The bag had a trace amount of white crystal substance that tested presumptive positive for methamphetamine. Also, two scales and packaging were found in the kitchen/living room area of the residence.

CONCLUSION

23. Based on the foregoing, your Affiant submits that probable cause exists to issue an arrest warrant charging LEONEL MICHEL VARGAS with being an alien illegally and unlawfully in the United States, in possession of firearms in

and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Sections 922(g)(5) and 924(a)(2) (Count 1) and with possession with the intent to distribute 5 grams or more of actual methamphetamine, a Schedule II controlled substance, in violation of 21 United States Code, Section 841(a)(1), and 18 United States Code, Section 2 (Count 2).



Aaron Clem, Task Force Officer
Federal Bureau of Investigation

SUBSCRIBED AND SWORN to before me this 16th day of May, 2013.

*By phone
v. fms*



CYNTHIA IMBROGNO
United States Magistrate Judge

ATTACHMENT A

XProtect Smart Client Surveillance Report

Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 5:16:03 PM
Report print time:	Wednesday, May 08, 2013 4:03:51 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 5:11:05 PM
Report print time:	Wednesday, May 08, 2013 4:01:12 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report


Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 5:11:03 PM
Report print time:	Wednesday, May 08, 2013 4:00:51 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report


Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 5:07:16 PM
Report print time:	Wednesday, May 08, 2013 3:59:21 PM
User:	agent
User's note:	


XProtect Smart Client Surveillance Report

<i>Surveillance Report</i>	
	
Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:44:06 PM
Report print time:	Wednesday, May 08, 2013 3:56:09 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report	
	
Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:43:59 PM
Report print time:	Wednesday, May 08, 2013 3:55:40 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report	
	
Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:43:39 PM
Report print time:	Wednesday, May 08, 2013 3:54:44 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:36:30 PM
Report print time:	Wednesday, May 08, 2013 3:51:42 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:34:36 PM
Report print time:	Wednesday, May 08, 2013 3:48:46 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report



Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:33:42 PM
Report print time:	Wednesday, May 08, 2013 3:48:01 PM
User:	agent
User's note:	

XProtect Smart Client Surveillance Report

Surveillance Report

Camera name:	Camera 2
Image capture time:	Monday, May 06, 2013 3:32:59 PM
Report print time:	Wednesday, May 08, 2013 3:47:28 PM
User:	agent
User's note:	